


POLICY

| | |
|------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------|
| Approved by: Rebecca R. Hunter, Commissioner | Policy Number: 12-012 (Rev. 6/15) |
| Signature:  | Supersedes: 11-016, 10-022 |
| Application: Executive Branch Employees, Human Resource Officers | Effective Date: June 1, 2015 |
| Authority: T.C.A. §§ 2-19-201 through 208, T.C.A. § 4-3-1703, T.C.A. § 8-30-101, T.C.A. § 8-30-104, T.C.A. § 8-30-306 | Rule: Chapters 1120-2, 1120-10 and 1120-14 |

Subject:

Political Activity by State Employees

Political activity by state employees is regulated by the following three (3) statutes:

1. The Little Hatch Act (Tennessee Code Annotated §§ 2-19-201 through 208);
2. Tennessee Code Annotated § 8-30-306; and
3. Title 5, United States Code Annotated §§ 1501-1508.

Some provisions of the Little Hatch Act (Act) apply only to employees of the executive branch, while other provisions of the Act apply to all state employees. Individuals exempted from certain provisions of the Act include elected officials, officials elected by the General Assembly, and members of the Governor's cabinet and staff (see Tenn. Code Ann. § 2-19-201(3)). Because the Act's prohibitions are very detailed and require careful reading to determine whether particular types of activity might violate its provisions, this policy provides only a broad outline of the types of conduct that the Act regulates. For specific questions about applicability of the Act to a particular situation, please contact your agency attorney or human resources officer.

The Little Hatch Act prohibits state employees of the executive branch from engaging in the following:

1. Intimidating or coercing public officers and employees so as to interfere with an election, nomination, or measure (Tenn. Code Ann. § 2-19-202);
2. Receiving or paying any kind of assessments for political purposes or for election expenses (Tenn. Code Ann. § 2-19-202);

| | |
|---------------------------------------------------------------------|------------------------------|
| DOHR Policy: Political Activity by State Employees | Policy Number: 12-012 |
|---------------------------------------------------------------------|------------------------------|

3. Soliciting directly or indirectly contributions for political purposes or campaign expenses from persons or entities that are connected to the state or that do business with the state (Tenn. Code Ann. § 2-19-203);
4. Promising state benefits, including but not limited to, employment, contracts, work, or loans as a reward for political activity (Tenn. Code Ann. § 2-19-204);
5. Depriving or threatening to deprive any person of state benefits, including but not limited to, employment, compensation, contracts, work, or loans because of a person's or entity's political activity (Tenn. Code Ann. § 2-19-205);

The Little Hatch Act prohibits all state employees from engaging in the following:

1. Displaying campaign literature, banners, placards, streamers, stickers, signs, or other items of campaign or political advertising on the premises of state property. (Tenn. Code Ann. § 2-19-206(a)) Exception: Employees may display a decal or bumper sticker on their personal vehicle while parked on state property. (Tenn. Code Ann. § 2-19-206(c))
2. Using state-owned property for campaign advertising or activities (Tenn. Code Ann. § 2-19-206(b));
3. Engaging in political activity not directly a part of that person's employment during any period when the person should be conducting business of the state (Tenn. Code Ann. § 2-19-207); and
4. Promulgating any rules or issuing any policies that are more restrictive than the Act (Tenn. Code Ann. § 2-19-207(b)(3)).

In addition to the Little Hatch Act, Tennessee Code Annotated § 8-30-306 states, "No person holding a position in the preferred service shall solicit, directly or indirectly, or require any other person to solicit, directly or indirectly, donations or contributions for any political party, candidate, cause or purpose in order to acquire or deny a position in state service or to materially affect the retention, promotion or demotion of any employee in state service."

Federal law (Hatch Act) also regulates certain types of political activity of state employees whose principle employment is in connection with an activity that is financed in whole or in part by federal funds ("covered employees"). Covered employees may not:

1. Use their influence or authority to interfere with or to affect the result of an election or nomination for office;
2. Directly or indirectly coerce or attempt to coerce another employee to contribute money or anything of value to a political campaign; or
3. Be a candidate for an elective partisan office.

| | |
|---------------------------------------------------------------------|------------------------------|
| DOHR Policy: Political Activity by State Employees | Policy Number: 12-012 |
|---------------------------------------------------------------------|------------------------------|

If an employee is covered by the Hatch Act, taking a sabbatical or leave of absence will not allow that employee to be a candidate in a partisan election. Employees subject to the Hatch Act continue to be covered while on annual leave, sick leave, administrative leave, furlough or any other paid or unpaid leave. For questions about the federal Hatch Act, please contact the Office of Special Counsel at 1-800-85-HATCH.

Finally, employees should also review any relevant Executive Orders before engaging in certain political activities. Executive Order Number 3 prohibits conduct, whether or not specifically prohibited by statute, regulation, or executive order, that might result in or create the appearance of using public office for private gain, giving preferential treatment to any person, impeding government efficiency or economy, losing complete independence or impartiality, or adversely affecting the confidence of the public in the integrity of the government.

Despite the restrictions in the statutes and executive order mentioned above, state employees retain certain rights related to political activity. Most notably, state employees' right to vote as they choose and the right to express opinions on political subjects and candidates are not affected by these statutes.

Questions regarding this policy may be directed to the Office of the General Counsel.